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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,186	12/11/2001	Larry Russell	PW-0278622	1091
47953	7590	04/27/2005	EXAMINER	
LAW OFFICE OF KARRY W. WANG 3342 PARK RIDGE DR RICHMOND, CA 94806			GESESSE, TILAHUN	
			ART UNIT	PAPER NUMBER
			2684	
DATE MAILED: 04/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/022,186	<b>Applicant(s)</b> RUSSELL, LARRY	
	<b>Examiner</b> Tilahun B Gesesse	<b>Art Unit</b> 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Due to telephone interview with Mr. Reinhard Eisenzopf (PTO), the outstanding final office action has been vacated and a new non-final office action is following:

#### **Specification**

2. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP j 608.01. (see page 1 , third paragraph).

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by 4. Olaniyan (US 5,852,610).

Claim 1, Olaniayn discloses a method of providing a broadcast of a station over a telephone (figures 1-2 and abstract), placing a call from the telephone (figure 2) telephonically accessing a system (figure 1) capable of connecting to a plurality of broadcast stations (column 4 lines 66-column 5, line 24) requesting to Receive the

broadcast of the station (column 8, lines 1-13) and transmitting the broadcast of the station via the telephone (column 9, lines 40-49).

Claim 2 Olaniayn discloses the station is a member selected from the group consisting of radio stations and via audio broadcast stations (column 4 line 66-column 5, line 24).

Claim 3, Olaniayn discloses providing a menu of identification options for identifying the stations wherein the requesting step comprises the steps of: selecting an identification option and entering the identification of the station under the identification option. column 8, lines 14-25)

Claim 4 Olaniayn discloses, the identification entrée of identification option (column 8, lines 14-25).

Claim 5 Olaniayn discloses the station is a radio station and the identification is a member selection from the group consisting of call letters, band and frequency. Area code, and zip code. column 8, lines 14-25).

Claim 6, Olaniayn discloses the station is a W audio broadcasting station and the identification parameter is a member selected Am the group consisting of call letters, W channel, area code, and Zip code (column 8,lines 14-25).

Claim 7 Olaniayn discloses a method of providing a broadcast of a station over a telephone (figure 1) comprising the steps of: placing a call from-the telephone (column 9, lines 40-49): telephonically accessing a system capable of connecting to a plurality of broadcast stations (column 7, lines 14-67) selecting an option Am a menu of identification options for identifying the station (figure 2)., verifying the identification of

the station (column 8, lines 14-25) and transmitting the broadcast of the station via the telephone (column 9, 40-49).

Claim 8, Olaniayn discloses a system of providing a broadcast of a station over a telephone column 7, lines 14-68), a means for connecting to a plurality of broadcast stations (figure 1)., a means for a Listener to access the system by placing a call from the telephone (figure 2)., a means for the Listener to request to receive the broadcast of the station (column 8, lines 14-25) and a means for transmitting the broadcast of the station via the telephone (column 9, lines 40-49).

Claim 9, Olaniayn discloses the means for connecting to a plurality of broadcast stations enables the system to be connected to a plurality of radio and TV audio broadcasting stations (column 7, lines 14-68).

Claim 10, Olaniayn discloses the mean for the Listener to request to receive the broadcast of the station comprises'. a menu of identification options for identifying the station (column 8, lines 14-25) a means for the listener to select an identification option (column 8, lines 1-25), a means for the listener to enter a station identification under the identification option selected (figure 2) and a means for the system to accept the station identification entered (column 8, lines 1-25).

Claim 11 Olaniayn discloses the means for the system to accept the station identification entered comprises a means for verifying the station identification entered (column 8, lines 1-25 and figure 2 , GRLE switching center asks caller for desired telephone area or zip code).

As to the underlined phrase in the independent claims "capable of" is an intended use , therefore, the reference inherently discloses the structure that permits the function to be performed.

### ***Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olaniayn in view of Bates et al (US 6,804,510).

Claims 12-14, Olaniayn differs in disclosing a cellular telephone. However, Bates in similar art of endeavor , teaches cellular telephone (column 4, lines 50-63). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize a cellular telephone for requesting a desired broadcast station , as taught by Bates, than the using the conventional wired telephone for convenient and lighter to carry around and more accessible than the wired telephone.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Goodman (US 5,594,779) discloses a mobile audio program selection system includes a radio frequency based information distribution system having mobile users (see abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 4/18/05  
TILAHUN GESESSE  
PRIMARY EXAMINER

## **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flex.

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